

TÜSLA

An Ghníomhaireacht um
Leanaí agus an Teaghlach
Child and Family Agency

EARLY YEARS INSPECTORATE

Escalation & Enforcement Activity



Our vision is for all services regulated by the Early Years Inspectorate to be safe and happy places for children to play, learn and develop.

2023

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Executive Summary

The Early Years Inspectorate, (part of Tulsa's Children's Services Regulation), is the independent statutory regulator of early years services in Ireland and has responsibility for registering and inspecting pre-schools, play groups, nurseries, crèches, day-care, and similar services that cater for children aged 0 to 15 years. The role of the Early Years Inspectorate is to promote and monitor the safety, quality of care and support of the child in early years provision in accordance with the Child Care Act 1991 (Early Years Services) Regulations 2016 and Child Care Act 1991 (Early Years Services) (Registration of School Age Services) Regulations 2018. There are two types of early years services; pre-school services which cater for children aged 0 to 6 years and school age services which cater for children under the age of 15 years enrolled in a school providing primary or post primary education. School age services operate outside of school hours.

The Early Years Inspectorate's Enforcement and Escalation Team oversee required enforcement activity initiated under legislation where deemed necessary. In 2022, this was via two registration fora: the National Registration and Enforcement Panel and Early Years Conditions Panel. In 2023, these panels were merged and there was an additional stream for enforcement action in relation to services who did not complete the required 3-yearly renewal of registration.

Services are commonly referred to the National Registration and Enforcement Panel when there is;

- Consistent and persistent non-compliance with regulation,
- Operation without or contrary to approved registration,
- Failure to meet requirements renewal of registration,
- High or critical concerns following inspection, that present or pose a risk of ongoing harm to children.

Each year, a small number of early years services are assessed as requiring escalation for consideration of enforcement action. This report presents an analysis of services escalated for enforcement actions and the outcomes of those actions in 2023. The report follows the [2022 report](#) which was the second of its kind in Early Years Regulation and is available on the Tulsa website.

In 2023 most services who engaged with the National Registration and Enforcement Panel avoided enforcement sanctions. 23 services remained at panel from the 2022 period, 31 services were referred in 2023 with 28 services accepted as meeting the threshold for acceptance. Provider engagement with escalation and enforcement actions in the majority of cases resolved the concerns and the non-compliance previously highlighted on inspection.

The trend of positive and proactive engagement between services and the Early Years Inspectorate has continued in 2023. There remains a good level of engagement from services considered for enforcement action which has consistently resulted in lower levels of sanctions being placed on services. No service met the threshold for removal from the register in 2023.

Other services had conditions attached to their registration which were then removed following inspection when compliance was attained by the service.

These positive outcomes continue to reinforce the key message that continuous engagement and communication is essential between providers and the enforcement team.

This report was prepared by the Enforcement and Escalation Team which is part of the Early Years Inspectorate's Registration and Enforcement Office. Its development was overseen by Mike Corcoran, Head of Registration and Regulatory Enforcement, with support of Caroline Lenihan, Senior Regulatory Support Officer.

The Inspectorate would like to acknowledge the continued and valuable support of colleagues from the following departments in the execution of its functions.

- The Association of Chief Fire Officers of Ireland
- The Office of Legal Services, Child & Family Agency
- The National, Regional & Urban Planning Policy Unit, Dept. of Housing, Local Government & Heritage.

1.0 Introduction

Tusla – The Child and Family Agency was established in 2014 and is responsible for improving wellbeing and outcomes for children in Ireland. Under the Child and Family Agency Act 2013, Tusla is charged with supporting and promoting the development, welfare and protection of children and the effective functioning of families. Children’s Services Regulation (CSR) located within the Quality and Regulation Directorate of Tusla, has responsibility for the effective operation and performance of the agency’s statutory regulation functions.

Children’s Services Regulation has a vision for all regulated services to be safe and happy places for children and young people to live, play, learn and develop.

A defined strategy has been developed to achieve this vision. The strategy sets out four goals, one of which is effective regulation. We aim to regulate services and enforce the relevant legislation, through a world-class regulatory system using the full range of our enforcement powers. Where a service is below standard, we take actions in proportionate, effective, and dissuasive ways to protect children.

As part of business planning, this review of the operation and outcomes of the regulatory escalation and enforcement activity in 2023 was undertaken. The outcome of the review will inform our enforcement strategy and where appropriate to assist service providers in their ongoing efforts to achieve compliance with the regulations.

The Early Years Inspectorate’s Enforcement and Escalation team oversee required enforcement activity initiated under legislation. This report presents an analysis of those services escalated for enforcement actions and the outcomes of escalation.

The Inspectorate’s regulatory enforcement processes are informed by legislation and regulation and by relevant policy. Non-compliance with regulation identified on inspection is, in the main, addressed through the corrective and preventive actions (CAPA) undertaken by registered providers following inspection.

This early-stage intervention is usually sufficient to address shortfalls in the attainment of standards of compliance with regulations. There are a range of escalation and enforcement actions embedded into the different processes across the inspection and registration departments. The Inspectorate has statutory authority to refuse to register services, remove services from the register, add conditions to their registration or to prosecute services for significant breaches of regulation and/or other prescribed parts of the legislation. Consideration of these actions are undertaken by the Inspectorate’s National Registration and Enforcement Panel (NREP) for early years services.

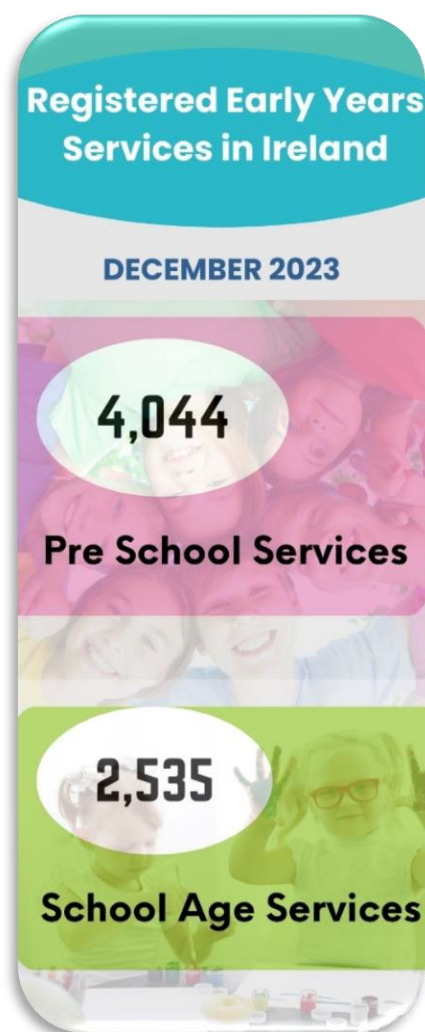
As of the end of December 2023, there were 4,044 pre-school services and 2,535 school age services on the national register. Each year, a small number of early years services are assessed as requiring escalation for consideration of enforcement. In 2023, a total of 31 services were referred to the National Registration and Enforcement Panel (NREP).

Early years services are escalated for a range of reasons, predominantly;

- Consistent and persistent noncompliance with regulation,
- Operation without or contrary to granted registration,
- High or critical concerns that pose a risk of ongoing harm to children.

The National Registration and Enforcement panel is responsible for consideration of appropriate enforcement actions. This ensures that any action proposed is effective in the mitigation or removal of assessed risk to children. The role of the panel is to apply the process of enforcement and ensure adherence to legislation and fair procedures.

We would like to acknowledge the work of early years services across the country for their commitment to providing safe and quality services to children and families. We thank them for their engagement with the inspection process. We would also like to acknowledge stakeholder organisations in the sector who support early years services and work closely with us to promote safety and quality.



2.0 Registration Renewal

2.1 Introduction

In accordance with Part VIIA of the Child Care Act 1991, early years services are required to apply for and obtain registration in order to operate. Registration ensures that state prescribed safeguards are attained in all regulated settings for children.

Registration is granted for a period of 3 years and must be renewed via application thereafter. In 2019, pre-school services were required to renew the registration of their service as required under the Child Care Act 2013. Approximately 4,062 services were required to complete this process.

As a result of the COVID-19 pandemic in early 2020 and the challenges faced by the sector, the period to complete registration 2019 was by ministerial agreement extended to the end of 2021.

At the end of this period, services who had failed to meet the renewal of registration requirements totalled 903. This represented approximately 25% of services who were due to renew in 2019. These services were still not fully registered due to issues relating to; their fire safety certification, their approved planning, both fire safety and planning or other outstanding registration documentation.

In January 2022, the Registration Office undertook *Project 903* as the follow-on exercise from the 2019 renewal of registration. The project involved working with these services to help them achieve compliance with their registration in order to avoid unnecessary service closures.

In April 2022 the government made amendments to the then legislation to enable the introduction of a more streamlined renewal of registration process for providers.

2.2 Objectives

The objectives of *Project 903* were to engage with each non-compliant service using appropriate escalation pathways based on the risk posed to children by their continued operation and to maximise the number of services achieving full compliance.

Cohorts of services were divided depending on the documents outstanding for the service.

These documents consist of 3 types:

- 1) **Operational Documentation:** A collective term referencing policy documents, Garda vetting and floor plans.
- 2) **Fire Safety Documentation:** A fire safety certificate or in the absence of a fire safety certificate, a fire risk assessment for the premises to provide assurance that the building or its operation does not pose a fire safety risk to children.
- 3) **Premises Suitability Documentation:** Planning permission from the local authority confirming that the premises is suitable for use as a pre-school setting.

2.3 Regulatory context for Renewal of Registration

Services within the above cohorts had to meet the criteria for registration as prescribed under the Child Care Act 1991 (Early Years Services) Regulations 2016.

1. Operational Documentation:

Regulation 6: Registration of a Pre-School Service

A proposed registered provider will be required to operate in accordance with the statutory requirements of the Childcare Act 1991 (Early Years Services) Regulations (2016) and Part 12 of the Child and Family Agency Act 2013 (Article 58G). It is an offence under Section 58K of Part 12 of the Child and Family Agency Act 2013 to be in operation without registration.

2. Fire Safety Documentation:

Regulation 23: Safeguarding Health, Safety and Welfare of Child & Regulation 29 Premises

Purpose - The protection and welfare of the children in your service is paramount, and the children's safety and wellbeing is the priority. A registered provider must be committed to safeguarding the children attending the service and provide an environment where they can play, learn and develop. The scope of this regulation includes General Safety and Fire Safety.

3. Building Suitability Documentation:

Regulation 23: Safeguarding Health, Safety and Welfare of Child & Regulation 29: Premises

Purpose - A registered provider must ensure the premises are safe, suitable for their purpose, and provide an appropriate environment for the children attending the service and the staff. The premises must comply with relevant statutory provisions and be clean and hygienic.

2.4 Escalation Process

The Early Years Inspectorate's Enforcement and Escalation Team oversaw required enforcement activity initiated under legislation against services through the National Registration and Enforcement Panel.

Project 903 commenced in January 2022 with 903 pre-school services that were required to complete their 2019 renewal of registration application. Throughout 2022, 804 pre-school services submitted their outstanding documents and became compliant with the regulations. In January 2023, the remaining 99 non-compliant services were examined in relation to their outstanding requirements to renew their registration from 2019 under Regulations, 23 and 29. The registration team along with the enforcement team reviewed each of the non-compliant applications and based on the level of risk identified, an escalation pathway was established.

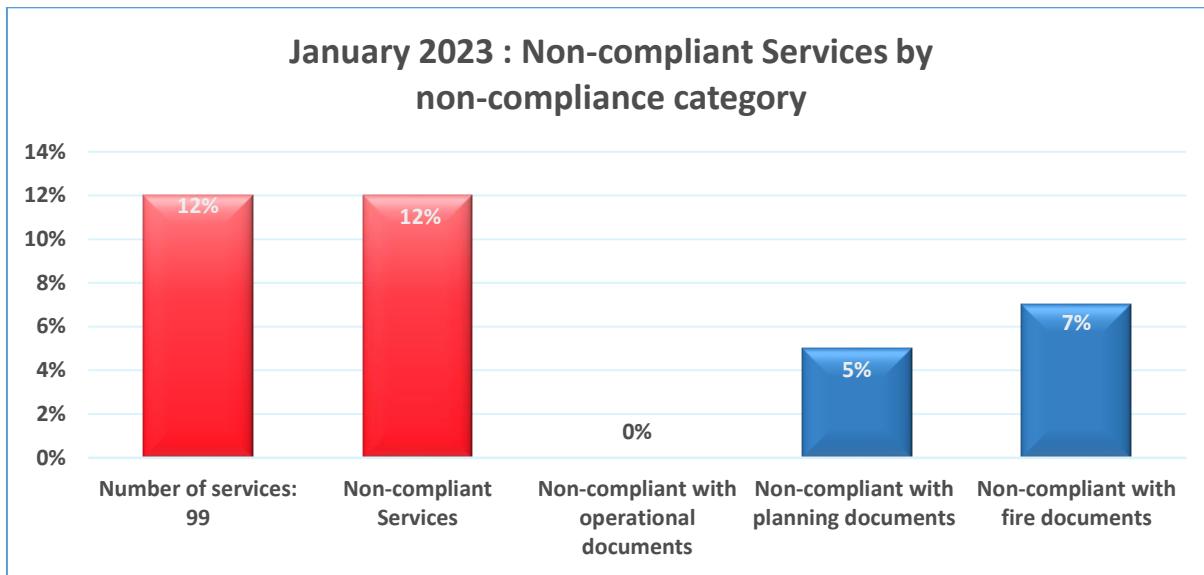


Figure 1: January 2023 non-compliant services by non-compliance category pre-escalation process

1. Propose to add condition(s) to the service.

A service has 21 days from receipt of the proposal to add conditions to their registration to make representations in writing to the registration team or alternatively they may refer the matter to the District Court in their area for consideration.

All representations were considered prior to any final determination by the Inspectorate. This was the first step in the escalation pathway.

2. Conditions attached to the service registration.

Services that failed to make representation or submitted representation had a condition attached to their registration until such time as the service reached compliance. The condition(s) were removed once the service reached compliance.

Outcome

- At the end of 2023, the number of services that had not completed renewal of registration was 14.

Region	Jan-23	Region	Dec-23
Mid Leinster	10	Mid Leinster	1
South West	10	South West	1
South East	12	South East	1
Dublin South	14	Dublin South	0
Mid West	12	Mid West	0
North West	8	North West	2
Dublin North East	12	Dublin North East	5
Dublin North	21	Dublin North	4
Total	99	Total	14

Figure 3: Number of starting and closing figures by county

- 13 services of the 99 non-compliant services in January 2023 had ceased operating by December 2023.

The Enforcement and Escalation Team will continue to work appropriately with the remaining 14 services in assisting them reaching full compliance where possible in 2024. This will only occur where the Inspectorate is satisfied that the operation of the service does not pose a risk to children. It should be noted that these services for the most part had commenced processes to achieve compliance in relation to fire safety and premises suitability. Where necessary, providers were required to put in place suitable mitigation to any risk to children posed by premises safety.

3.0 National Registration Enforcement Panel

3.1 Context

It is policy of inspection teams to refer services who meet a prescribed threshold of non-compliance, to the National Registration and Enforcement Panel for intervention.

The purpose of the panel is to consider appropriate and proportionate enforcement pathways for any early years services that are escalated from inspection area teams or the registration department. The work of the panel is coordinated and actioned by the National Registration Manager for Escalation & Enforcement and overseen by the Head of Registration and Regulatory enforcement.

Generally, the panel convenes fortnightly. In 2023, a total of 22 meetings were held.

3.2 Referrals to National Registration Enforcement Panel

23 services were under the supervision of the NREP at the end of 2022. These services were brought forward into 2023.

An additional 31 services were referred during the year, of which 28 were accepted. This is an increase of 13 service referred and 11 services accepted compared to 2022. The regional breakdown for 2023 is as follows:

3.2.1 New Referrals to NREP by service region

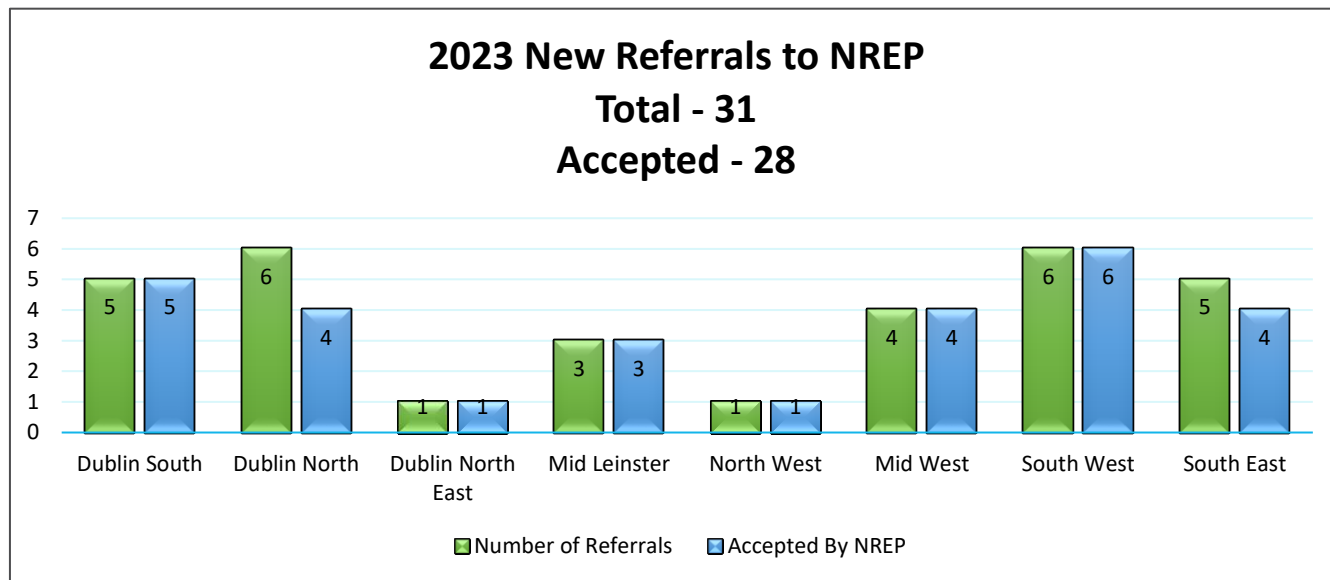


Figure 4 - Referrals to NREP by Service Region

Each service referred to the National Registration Enforcement Panel is assessed against the level of non-compliance remaining following the conclusion of the inspection process and the risk this non-compliance poses to the well-being of children. Referrals must also meet the prescribed thresholds for escalation.

The services that were not accepted for consideration at the panel did not meet the threshold for enforcement following effective corrective actions taken by the registered provider.

3.3 Accepted Referrals to National Registration Enforcement Panel

Of the 28 referrals accepted by the National Registration Enforcement Panel, the services were based in a range of locations and were of differing service types. The breakdown is as follows:

3.4 Accepted Referrals to National Registration Enforcement Panel by location type

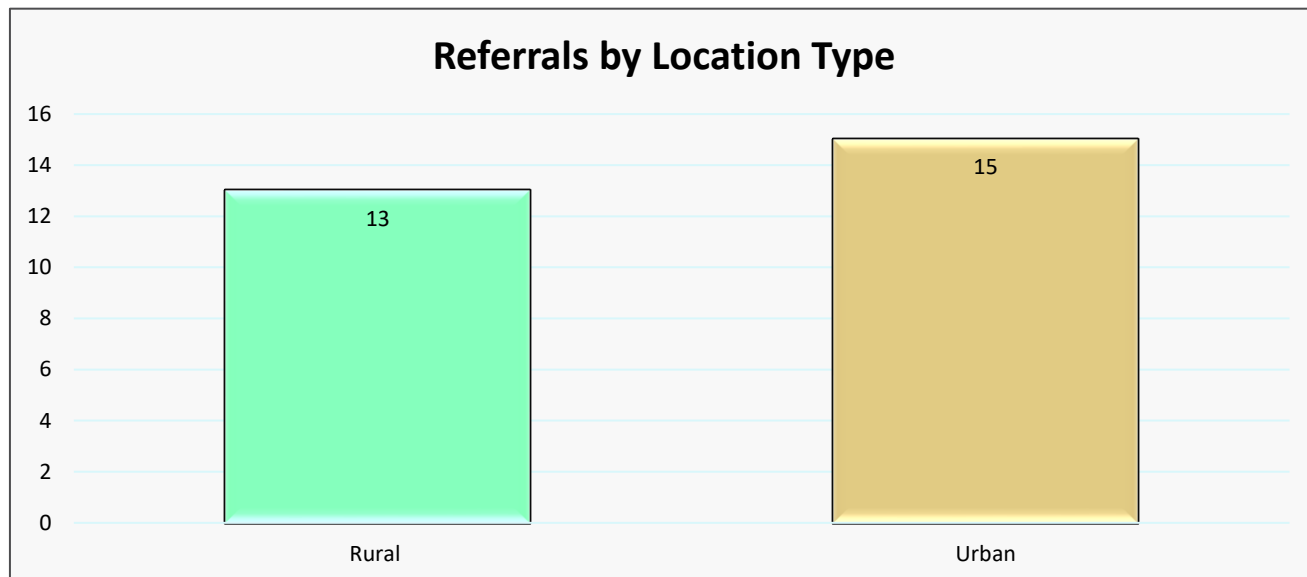


Figure 5 – Accepted referrals to NREP by location type

Services operating in urban locations featured slightly more prominently in accepted referrals to the National Registration Enforcement Panel during 2023, which was in line with 2022 figures. These settings tended to be larger and had increased turnover of staff in comparison with rural settings. Larger settings can be more challenging to supervise and shortfalls of governance was a presenting factor in these settings.

3.4.1 Referrals to National Registration Enforcement Panel by service type

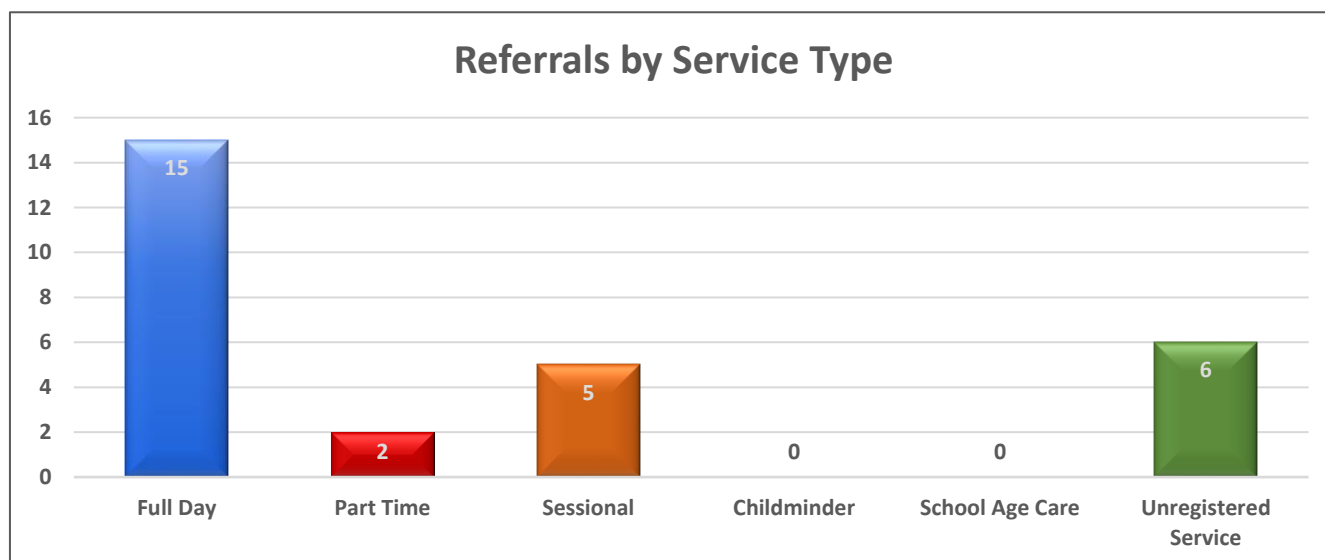


Figure 6 – Accepted referrals to NREP by service type

Five (17.8%) sessional services, two (7.1%) part time services and fifteen (53.5%) full day care services, who also offer sessional and part time services, were escalated to National Registration Enforcement Panel in 2023. Also, six (21.4%) services found to be operating without registration

were escalated. This was an increase of five services found to be operating without registration compared to 2022.

Full day care services formed the highest cohort of referrals and accepted services at 53.5%. These services, by their nature, offer the most extensive childcare, including longer opening hours and a variety of service types operating concurrently. As a result, they have a wider age profile of children and multiple transitions over a longer day. This increases the supervisory requirement and responsibility for persons in charge and registered providers and can lead to shortfalls in governance and oversight. This is more likely to occur where those appointed to this role are also acting as part of the adult to child ratio.

3.4.2 Referrals to National Registration Enforcement Panel by number of children attending in services

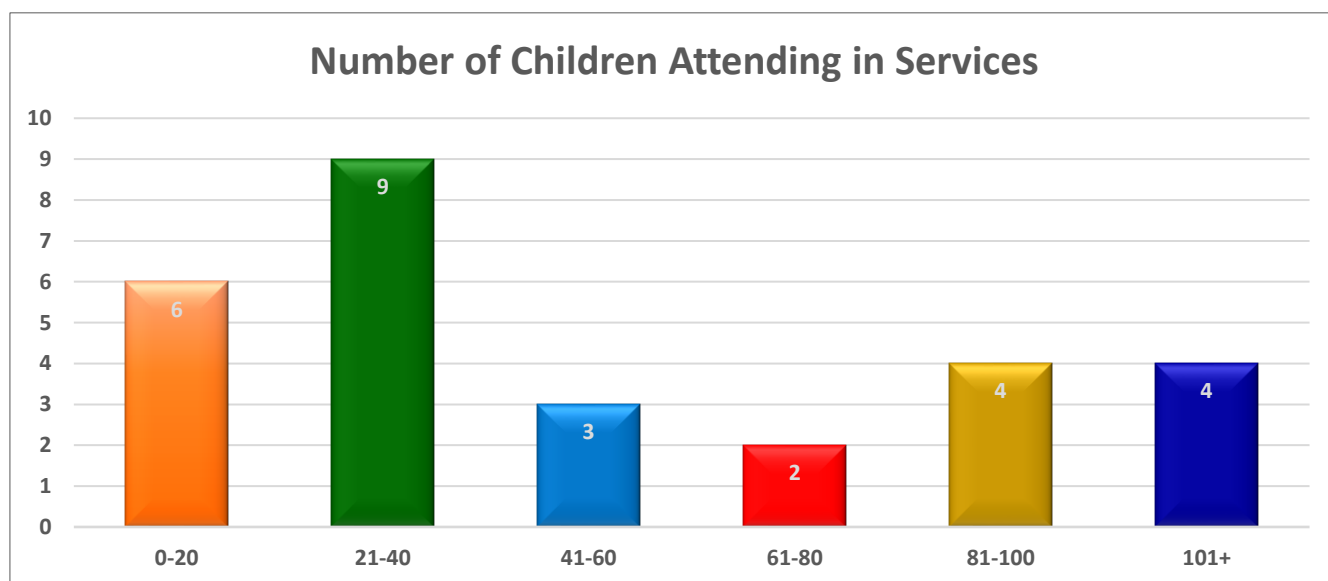


Figure 7 – Accepted referrals to NREP by number of children

Nine services, the biggest cohort, escalated in 2023 catered for 21 to 40 children (32.1%) at any one time, three services catered for up to 60 children (10.7%), two services catered for up to 80 children (7.1%), four services catered for up to 100 children (14.2%) and four services catered for over 100 children at any one time (14.2%). These figures are comparable to 2022 figures.

The number of children for the six services referred due to operation of an unregistered service have been included in the category of 0 to 20 children (21.4%) based on the allegations of numbers in attendance.

3.4.3 Number of services at NREP at end of 2023 by region

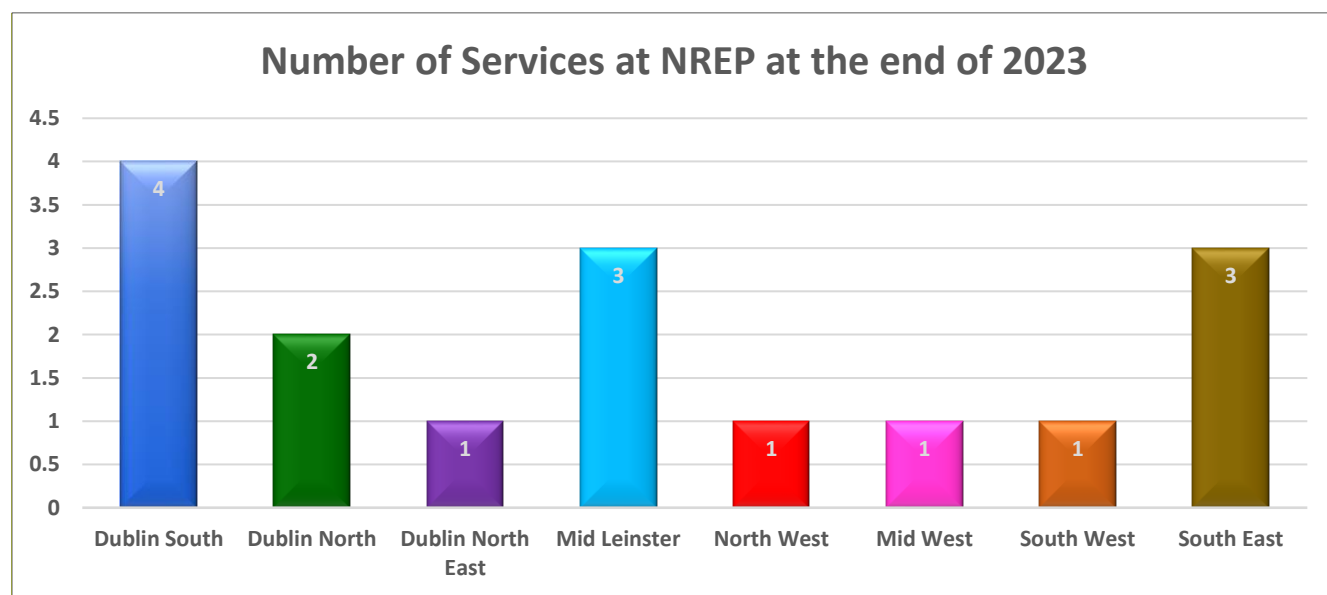


Figure 8 – Number of services at NREP at the end of 2022 by region

At year end there were 11 (39.2 %) services whose enforcement commenced in 2023 and was ongoing into January 2024. This is a slight increase from 2022 figures which is in line with the 2023 referral increase.

Of the remaining services at NREP, there was one service involved in court proceedings at the end of the year.

3.5 Reasons for referral to the National Registration Enforcement Panel

3.5.1 Consistent and persistent non-compliance found on recurrent inspections

The largest number of referrals to the National Registration Enforcement Panel from the inspection teams related to consistent and persistent non-compliance with regulations, compounded by registered providers failing to implement required actions following inspection. In some of these cases, Immediate Action Notices had been issued to services and regulatory compliance meetings had been undertaken. An Immediate Action Notice is issued to a registered provider following an inspection where a significant breach of legislation has been identified which resulted in an immediate concern about the safety, health and/or welfare of children. An Immediate Action Notice instructs a service to take a particular course of action, which must be complied with in order to address risk immediately or within a defined time period.

3.5.2 Feedback and Concerns and notifiable incidents submitted to the Early Years Inspectorate

Previously, where concerns and notifiable incidents are risk rated by the Inspectorate as a critical concern to the welfare of children, these are referred to the National Registration Enforcement Panel. This practice was amended in 2022 and services were referred if after an inspection triggered by

the receipt of feedback and concerns/notifiable incident an unacceptable level of risk to children remained.

Engagement with services following receipt of a concern or a notifiable incident includes inspection of the service, review of the incident reports, related risk assessments and recommendations. The Inspectorate seeks assurance that such incidents are effectively managed, and causative factors identified and addressed to prevent recurrence.

In 2023, following inspection of a critical concern, no pre-school or school age services required further escalation to the National Registration Enforcement Panel. However, three unregistered services were escalated following a visit to the premises which confirmed operation of an unregistered service.

3.5.3 Persons confirmed as operating an Early Years Service without registration.

These services are considered to pose a high risk, as operation of a service without registration deprives children of state supervision and safeguarding.

A total of six referrals made to the National Registration Enforcement Panel regarding unregistered services were progressed. Three (50%), located in the Mid-West, South West and South East regions, necessitated the seeking of warrants of entry from the district court. This number is higher than the 2022 panel where three services required escalation.

In 2023, the Early Years Inspectorate noted a better response from unregistered services to recommendations to either; immediately cease operation, reduce numbers of children to a level that does not require registration or to register the service. However, unregistered services sometimes require additional guidance and oversight from the National Registration Enforcement Panel. Two services were escalated for repeated concerns received and one service that was removed from the early years register continued to operate without registration.

For these services, while the process of registration is ongoing, they must cease operation until confirmation of registration is obtained. Continued operation without registration will result in the initiation of prosecution.

3.5.4 Initiation of Prosecution

There are several escalations pathways when a service is engaged with the National Registration and Enforcement Panel, of which prosecution is one. Prosecution can commence when a service is not engaging with National Registration and Enforcement Panel process and continues to operate without registration. By the end of 2023, one prosecution was initiated in relation to an unregistered early years service.

3.5.5 School Age Services

While no routine inspection schedule was in place for school age services in 2023, it was observed during a pre-school inspection, which was escalated to the National Registration Enforcement Panel, that the adjoining school age service did not meet regulatory compliance, which prompted a school age inspection.

3.5.6 Services operating outside of the terms of their registration.

The Early Years Inspectorate introduced new procedures to manage services found to be operating outside of the terms of their registration. An emphasis was placed on the assessment of risk posed to children by the operation of the unauthorised change.

Services falling into the criteria of operating outside of their terms of registration were characterised by registered providers proceeding to make changes to their services without the required submission of proposals and subsequent approval. In some cases, this was a persistent action by providers.

3.5.7 Failed New Registration Applications for 2023.

All early years services are required to be registered to be compliant with the Regulations. Zero services were refused new registration in 2023.

In 2023, 134 pre-school service applications were submitted, of which forty-five (33.5%) applications were closed due to being incomplete.

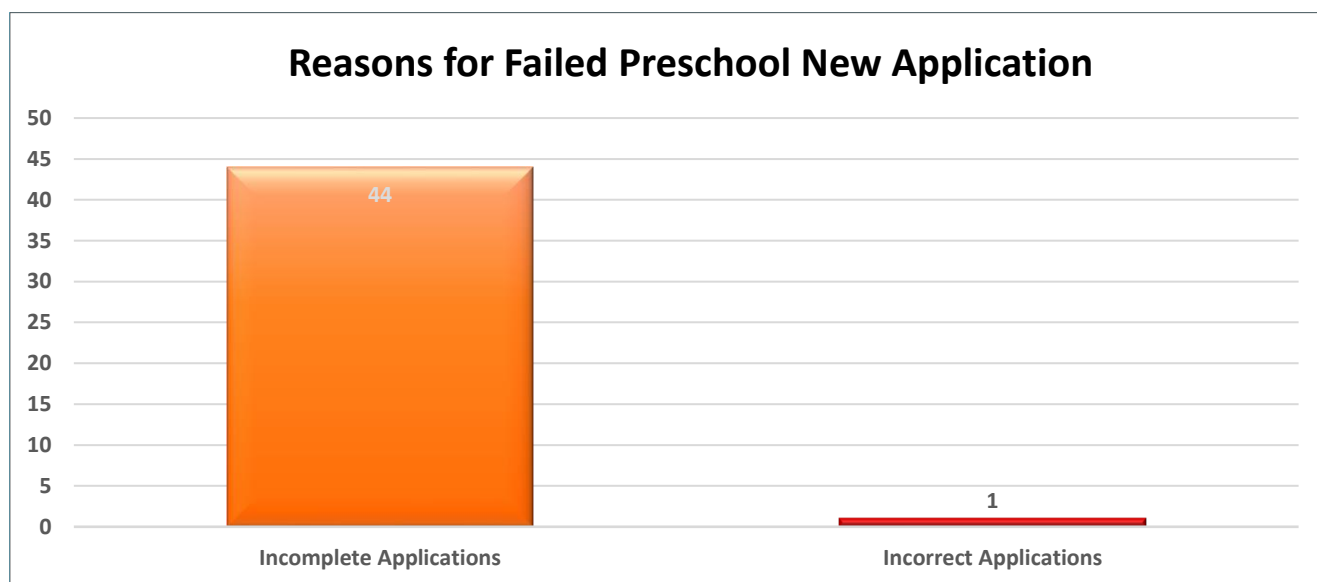


Figure 9 – Reasons for failed pre-school new application.

44 (97.7%) of these applications did not submit the required documentation within the timeframes. One (2.3%) application submitted was an incorrect application. 11 providers submitted multiple applications, some more than once, which equates to 14 duplicate applications. Out of these 14 duplicate applications, 8 providers attained early years registration.

In 2023, 369 school age service applications were submitted, of which 83 (22.5%) applications were closed due to incomplete applications.

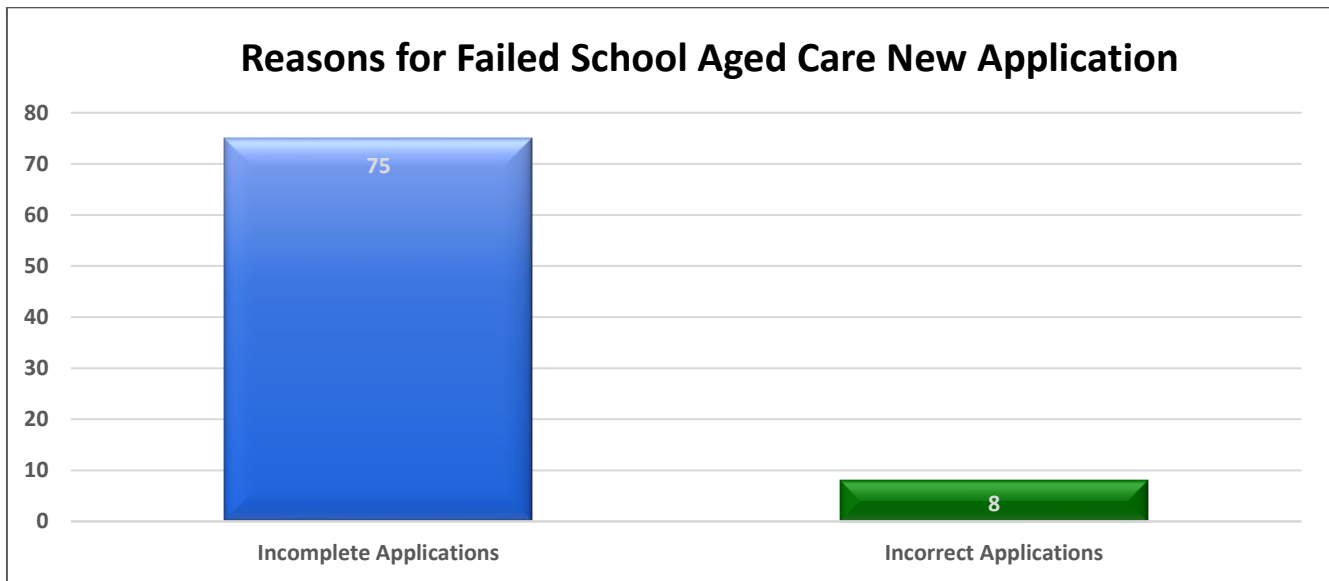


Figure 10 – Reasons for failed school age care new application.

Seventy-five (20.3%) of these applications did not submit the required documentation within the timeframes. Eight (2.2%) applications submitted was an incorrect application. Twenty-seven providers submitted multiple applications, some more than once, which equates to 35 duplicate applications. Out of these 35 duplicate applications, 24 providers attained school age registration.

3.6 Issues which contributed to escalation

In addition to the reasons identified above, there are number of themes emerging from the referrals to the National Registration and Enforcement Panel which reflect shortfalls in the actions of service providers and their managers. These are summarised under the following headings.

3.6.1 Effective Management, Governance and Oversight

Inadequate management and governance practices were found to have contributed to escalation. This is characterised by unclear and inconsistent management structures, lack of awareness and failure of implementation of agreed policies and procedures, and failures to sustain and maintain Corrective and Preventive Actions (CAPAs) over a period of time. There were identified shortfalls by managers to both supervise and support staff in their work practices.

In some services, providers have not ensured their staff have been appropriately vetted prior to commencement of their role or meet all the requirements for employment. We have seen an increased incidences where pre-employment checks have been insufficient.

As referenced above regarding full day care services, we have seen a trend for registered providers and persons in charge to act as part of the staffing ratio and be part of front-line care teams. Whilst this is understandable, it can sometimes result in these persons being diverted from the key functions of oversight and supervision of the service.

The growing sector staffing challenges where retention has been a significant concern and distraction for employers and has been cited as a rationale for these types of lapses. Whilst is has certainly played a role, the Inspectorate has observed that the steady increase in service size has, in some cases, stretched the capacity of providers to effectively oversee their services. It is recommended

that providers who also act as the Person-in-Charge (PIC) should consider delegating this role to a second person rather than attempting to carry an increasing growing burden of simultaneous operational, administrative and oversight functions.

3.6.2 Health, Welfare and Development of children

A number of themes have continued from our analysis in 2021 and 2022, to 2023, including ongoing neglect or underdevelopment of care rooms suitable for the age profile of children. Failure to provide sufficient outdoor activities and/or limited time outdoors. Failures to introduce programs to support the development of relationships between children and staff members.

3.6.3 Safeguarding Health, Safety and Welfare of children

Issues include; infection control, fire safety management, storage of equipment, inappropriate use of sleep mats and inadequate management of known risks.

Of more concern however, was an emerging trend of failure by early years providers to make mandated reports under their responsibilities as prescribed under the Children First Act 2015. The enforcement teams encountered a number of instances where providers, in response to unsuitable behaviour by their staff that met the threshold for a mandated report, either terminated the employment or carried out their own internal investigation in the absence of making the required report to Tusla social work services.

Such responses do not result in robust safeguarding of children. It is not uncommon for dismissed staff to simply leave the employment of one provider and end up working for another. The absence of provision of a reference of employment is no longer a guarantee that an unsuitable person will not obtain employment elsewhere. An employer may of course carry out an internal examination of any matter affecting the welfare of children, but this does not negate the need to make a mandated report where the matter relates to engagement with children that is potentially harmful to their wellbeing. The failure to make mandated reports will negate the services child safeguarding statement.

3.6.4 Records and Policies in relation to an early years service

Despite the increase in the quality of policy and procedural documents and associated recording systems, there have been a growing number of incidences where registered providers are failing to implement policy and maintain records as required. Staffing shortages have resulted in some employers failing to thoroughly induct their staff and instead hope to train them after hours. This is not sustainable and has impact on the wellbeing of children.

3.6.5 Facilities for rest and play

Services with concerns in this area were found to be failing to provide suitable space for children to sleep, inadequate sleep facilities available for the numbers of children attending and/or the age profile of the children. Insufficient numbers of cots for the children present and ventilation issues were also identified.

3.6.6 Premises

Issues were identified concerning the suitability of premises. These included adequate ventilation, cleanliness and maintenance.

3.6.7 Overreach by providers or prioritisation of business concerns

There was a continuation of practices observed from 2021 and 2022 into 2023 where in some circumstances, providers overextend their services to accommodate requests from parents. Whilst this may be understandable, there are examples where this has resulted in poor governance, and a resultant harm to children. Providers have advised the Inspectorate that rather than turn away parents, they may proceed to operate outside their authorised registration. In some instances, providers have taken deposits from parents or have made commitments that they subsequently feel cannot be reneged on. Incidences of operation outside of registration whilst not significant in terms of number did however pose unacceptable and unnecessary risk to the wellbeing of children.

The current enforcement policy to respond to this practice is currently under review and the Inspectorate will increase monitoring and intervention with providers who engage in these behaviours.

Retrospective regularisation of registration where there is an assessed risk to children is not permitted. This will result in the closure of the unapproved aspect of the service. This often causes understandable upset to parents, children and staff. The Inspectorate's primary concern is the wellbeing of children and the Inspectorate takes no responsibility for unlawful actions undertaken by providers irrespective of their motivation.

3.6.8 Multiple Services

Increasingly, multiple settings (chains) owed by a provider or company are being escalated for consideration of enforcement, as persistent and consistent non-compliance with the regulations across services have been found on inspection. The Inspectorate continued to adapt and amend its inspection and escalation methodology in response to this new growth area in the sector in 2023. This includes the examination of patterns of compliance across companies and provider settings. Challenges with recruitment and retention of staff and rising costs are cited as contributing factors.

3.7 Support for services at escalation or enforcement

3.7.1 Support Agencies

There are several support agencies available to early years providers who may need assistance with service improvement and/or development, such as the county childcare committees or Better Start.

As part of the escalation pathways, referrals can be made by the Early Years Inspectorate to such agencies to seek assistance for services by consent. Providers can and are encouraged to self-refer to the different support agencies for assistance and guidance. However, most who are escalated to the National Registration and Enforcement Panel do not proactively seek or engage in a meaningful way with the support services.

Where services do engage with additional support, it is a positive action and significantly aids registered providers in targeting the areas requiring improvement in their services. This is particularly helpful in targeting problematic areas such as how to develop and maintain corrective and preventive actions, policy and procedures, and staff supervision and support.

3.7.2 Regulatory Enforcement Meetings

A regulatory enforcement meeting is one of several interventions utilised by the National Registration and Enforcement Panel. The purpose of these meetings is to offer a final opportunity for the service to address the concerns and non-compliance outstanding from all previous escalation actions and avert the need for further enforcement. Services can submit written representations prior to and after these meetings. This meeting does not ordinarily highlight any new concerns as they would have been identified previously through correspondence and regulatory compliance meetings.

These meetings give clear guidance and clarity on why previous representations have not addressed non-compliance or what remains outstanding in relation to issues and concerns. The meeting seeks assurance from the registered provider regarding previous corrective and preventive actions that were either not put in place or not maintained between inspections.

These meetings have proved to be very beneficial for services and improved the quality of the representations received which regularly resulted in successful registration and less enforcement actions and sanctions being placed on services.

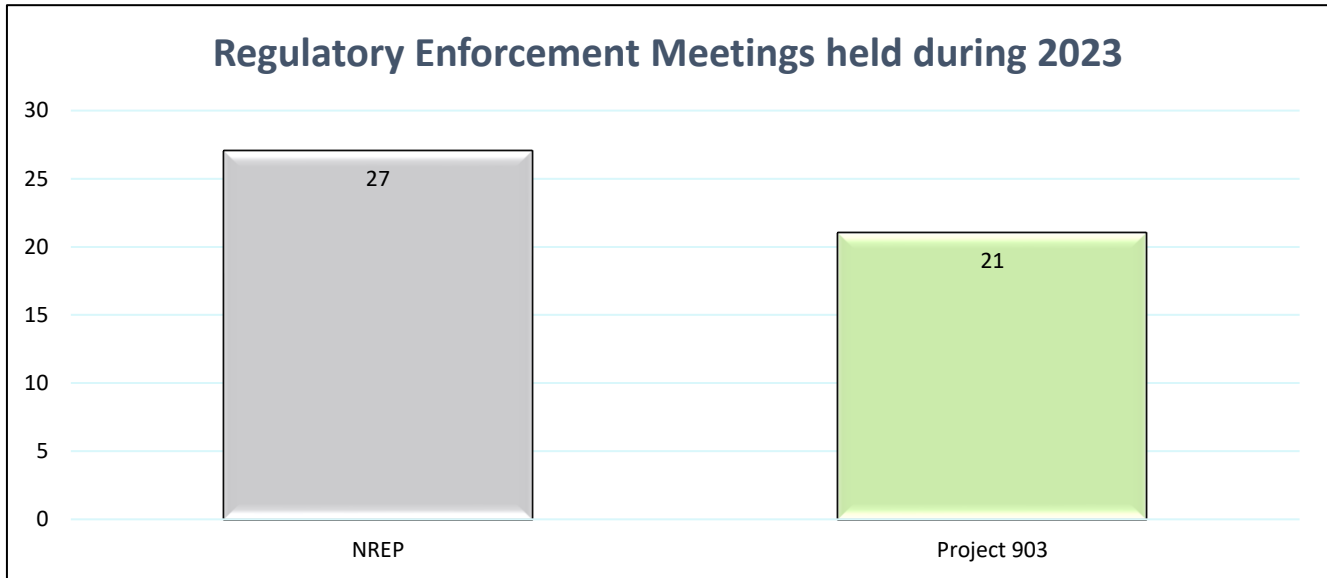


Figure 11 – Regulatory Enforcement Meetings Conducted in 2023.

In 2023 a total of 48 Regulatory Enforcement Meetings were conducted by the Escalation and Enforcement team. Twenty-seven (56.2%) services were engaged in enforcement action at the National Registration and Enforcement Panel. 21 (43.7%) services were engaged in project 903 regarding the completion of their 2019 registration renewal.

3.8 National Registration and Enforcement Panel Outcomes



Figure 11 – NREP Outcomes

There were twenty-eight services referred to the National Registration Enforcement Panel in 2023. All but one service engaged with the process and numerous services had a positive outcome including avoidance of enforcement sanctions. Ten services had conditions attached to their registration.

4.0 Key Messages

4.1 Registration Renewal

The renewal of registration of services following the end of the statutory transition period in 2019, despite the challenges imposed by Covid, was a considerable success. The renewal project was not without its challenges. Many services struggled with registration renewal as they had failed to ensure that they were compliant with statutory requirements for building safety and suitability. The renewal process provided an opportunity for many to regularise these state requirements and sustain their viability into the future.

During 2022, the DCEDIY introduced new legislation to make the renewal of registration process for early years providers more user friendly with a considerable reduction in administration. These provisions are available only to those who have completed a full application for registration.

This year saw the second tranche of providers of both pre-school, and school age services that were required to renew their registration under the new legislation. The process requires that an application is accompanied by Garda Vetting Declarations for relevant persons dated within 36 months of the date of application submission. Regretfully, a small number of providers failed to achieve their renewal by their due date because of failure to renew their vetting declarations. Failure to renew registration will render a service unable to operate and will result in a cessation of state payments. Providers are encouraged to pay due attention to their registration expiry and to comply with all reminders to submit their applications complete with all required supporting documentations.

4.2 Services operating outside of registration status

Providers operating outside of their registration status will potentially place children at risk, however well intentioned. The Inspectorate has increased its enforcement activity in this area as the risks posed to children have been found to be significant. Where the Inspectorate is not satisfied that children are safe and secure, it will take measures to ensure the provider reverts to approved registration. This is not desirable and may result in a reduction of capacity, and frustration from parents.

It is incumbent on providers where they make a change to their service to provide the Inspectorate with 60 days' notice of the proposed change. Unauthorised changes, which cannot be readily regularised, are not permitted to remain operational, pending retrospective registration approval.

4.3 School Age Services

There remains a perception that school age services pose less regulatory challenges to providers in their operation, as a comprehensive set of regulations for the care and welfare of children in these settings has not yet been introduced. As the public have become more aware of their regulated status, the number of concerns being submitted to the inspectorate has increased. Providers are encouraged to ensure the same level of vigilance and operational quality to such services.

The incidents which led to enforcement have resulted from an insufficient number of staff present in the service to cater for the full needs of the children. This is not necessarily because providers were found to have failed to meet the minimum staff ratios, but that in these instances, the

minimum was not sufficient to supervise the needs and movements of the children who attend their service.

Providers should be mindful that their staffing obligation is not confined to meeting the ratio alone but also to having enough staff to meet the needs of the children and to ensure that they are adequately supervised at all times.

4.4 Support for services in the enforcement process

There are times where engagement is hampered by emotional reaction to the escalation process. Some providers may feel that escalations are unwarranted or unfair. This can understandably lead to providers becoming anxious or worried which can result in delayed engagement with the process. Providers who find themselves in this position should not hesitate to speak with the Early Years Inspectorate staff who will assist them.

Providers, especially those who may feel overwhelmed with the prospect of enforcement or potential removal from the register, may feel discouraged at being unable to meet the requirements. If this occurs, it is advised that an external support organisation is engaged to provide aid and support. If the provider is not in a position to seek assistance, the Early Years Inspectorate can make a referral on their behalf. Early, proactive engagement with support organisations does result in positive outcomes for those facing enforcement.

4.5 Engagement

The Inspectorate will not seek to remove services from the register where the appropriate degrees of improvement can be achieved and maintained by the provider. There are some instances where the providers fail to engage with requests for information or provide partial responses to identified shortfalls. This simply compounds the problem and hampers any effort to reach resolutions.

From our review of 2023, the theme of positive and proactive engagement with services shines through again. The level of engagement with services considered for enforcement actions has directly resulted in lower levels of sanctions being placed on services. Of the 28 services escalated to the enforcement panel, 27 engaged with the process adequately. Eighty-five of the 99 services from 2022 escalated for requirements not met for registration renewal received from the staged 2019 process, achieved full compliance by end of 2023.

4.6 Inspection of services provided by chain or multiple providers.

As mentioned above the Inspectorate is encountering a steady increase in the registration of new settings by existing providers. 2023 has seen the development of thematic inspections arising from concerns or consistent findings across inspections of premises under the management of the same provider.

This is a different principle to the concept that inspections occur in isolation of each other or that one inspection has no relationship to the next. Providers are encouraged to consider that the findings of an inspection of one of their settings should encourage and form the basis of quality assurance checks in their other operations. The Inspectorate's approach to multisite inspections is currently under development but in the interim will be managed by examination of presenting risks.

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